Poster Advertising Co. v. *St. Louis,* 249 U. S. 269 (1919). Similar rules with regard to the exercise of the police power were laid down in *Plymouth Coal Co.* v. *Pennsylvania,* 232 U. S. 531 (1914); and in *Perley* v. *North Carolina,* 249 U. S. 510 (1919). The court then took up more specifically the right to regulate prices in private businesses, and relied on the case of *Munn* v. *Illinois,* 94 U. S. 113 (1876). In that case all of the authorities cited sustain the dissenting opinion of Mr. Justice Field. Nevertheless, in the next rate case, *German Alliance Insurance Co.* v. *Lewis,* 233 U. S. 389, L. R. A. 1915C, 1189 (1914); *Munn* v. *Illinois, supra,* was followed. Again in the *Munn Case, supra,* there is some doubt as to whether or not the owners of the businesses there regulated had not dedicated them to the public; and if that was the fact, then the case is above criticism, but at the same time it is no authority for the instant case which involves a purely private business.

Only two more cases were considered in dealing with this question of the police power. *Tenement House Department* v. *Moeschen,* 203 U. S. 583, affirming 179 N. Y. 325, 72 N. E. 231 (1906); *Noble State Bank* v. *Haskell,* 219 U. S. 104, 32 L. R. A. (N. S.) 1062, Ann. Cas. 1912A, 487 (1911). In the latter case the court was careful to first ascertain that the charter of the bank had an altering and repealing clause before upholding the regulating law. The former case was cited and relied upon as an instance of the regulation of landlord and tenant under the police power. The law sustained was one requiring that certain plumbing fixtures necessary to prevent the spread of disease be installed in all tenement houses —clearly a proper exercise of the police power, but distinguishable from the regulation of the amount of rental to be charged.

This discussion covers all of the authorities relied on to show that the "Rent Laws" were proper under the police power of the State. This holding is clearly doubtful, and were it not for *Munn* v. *Illinois, supra,* a doubtful case, the holding would be unsound on authority as well as upon principle. The true principle would seem to be that wherever a business has been dedicated to the public; or exercises some special franchise (as eminent domain); or has been granted some particular privilege, as a monopoly created by law, then in return for this privilege, or because of the dedication to the public, the State may regulate that business. *Allnutt* v. *Inglis,* 12 East 527 (1810). The argument for regulating private business is unsound as the previous review of the cases show.

DAMAGES—PHYSICAL EXAMINATION OF PLAINTIFF IN PERSONAL INJURY ACTION MAY INCLUDE BLOOD TEST.—Plaintiff sued defendant in a personal injury action. There is a provision of the New York Code permitting the defendant in such an action to require the plaintiff to submit to a physical examination, under such restrictions and directions as the court may deem proper. The defendant asked for an order of the court for a physical examination of the plaintiff, requiring a blood test, as the examining physician stated in an affidavit that it would be necessary to make such a test to determine accurately the plaintiff's condition. The plaintiff claimed that the statute is not broad enough to justify such an order. *Held,* the order will be granted. *Hayt* v. *Brewster, Gordon & Co.,* 191 N. Y. S. 176 (1921).

Under the common law in England no power existed to compel a person suing for a personal injury to submit to a physical examination. *Union Pac. R. Co.* v. *Botsford*, 141 U. S. 250 (1891); *McQuigan* v. *Delaware, etc., R. Co.*, 129 N. Y. 50, 29 N. E. 235, 26 Am. St. Rep. 507, 14 L. R. A. 466 (1891); 16 Am. & Eng. Enc. of Law (2nd Ed.) 811. And this rule still prevails in the federal courts and in some of the State courts. *Union Pac. R. Co.* v. *Botsford, supra; Mills* v. *Wilmington City R. Co.*, 15 Del. 269, 40 Atl. 1114 (1894); *Illinois Cent. R. Co.* v. *Griffin*, 80 Fed. 278 (1897); *Wheeler* v. *Chicago, etc., R. Co.*, 267 Ill. 306, 108 N. E. 330 (1915); *Stack* v. *New York, etc., R. Co.*, 177 Mass. 155, 58 N. E. 686, 83 Am. St. Rep. 269, 52 L. R. A. 328 (1900); see also 13 Mich. Law Rev. 702; 1 GREENLEAF, EVIDENCE (16th Ed.) § 469m. In most jurisdictions, however, the power of courts to compel reasonable physical examination in such cases is upheld. *Richmond, etc., R. Co.* v. *Childress*, 82 Ga. 719, 9 S. E. 602, 14 Am. St. Rep. 189, 3 L. R. A. 808 (1889); *Graves* v. *City of Battle Creek*, 95 Mich. 266, 54 N. W. 757, 35 Am. St. Rep. 561, 19 L. R. A. 641 (1893); *State* v. *Anderson*, 270 Mo. 533, 194 S. W. 268, L. R. A. 1917E, 833 (1917). In some States, statutes have been passed expressly authorizing the court to order a physical examination of the plaintiff in actions to recover damages for personal injuries, and such statutes have been declared constitutional. *Lyon* v. *Manhatton R. Co.*, 142 N. Y. 298, 37 N. E. 113, 25 L. R. A. 402 (1894); *McGovern* v. *Hope*, 63 N. J. Law 76, 42 Atl. 830 (1899). And where a State statute authorizes a surgical examination, the federal courts sitting in the State will act under it, adopting the statute as a rule of decision in trials at common law. *Camden, etc., R. Co.* v. *Stetson*, 177 U. S. 172 (1900).

No case has been found involving the question whether a blood test may be required as a part of the physical examination. It is the rule, however, that the examination is to be conducted under the direction of the court, and so conducted as not to subject the plaintiff to any unnecessary annoyance or exposure of the person. *McGovern* v. *Hope, supra.* And the examination must not subject the party to pain, or endanger his life. *Sibley* v. *Smith*, 46 Ark. 275, 55 Am. Rep. 584 (1885); *Louisville R. Co.* v. *Hartlege*, 25 Ky. Law Rep. 152, 74 S. W. 742 (1903). The use of anaesthetics, opiates, or drugs of any kind is generally prohibited. *Schroeder* v. *Chicago, etc., R. Co.*, 47 Iowa 375 (1877); *Sibley* v. *Smith, supra.*

The statute involved in the instant case provides that the examination shall be made "under such restrictions and directions as to the court or judge shall seem proper". N. Y. CODE CIV. PROC. § 873. And it has been held that as the courts in New York had no power to order a physical examination of plaintiffs in personal injury suits prior to the enactment of the statute, that the statute is to be strictly construed, and the examination is not to be extended beyond the exact terms fixed by the statute. *Bowe* v. *Brunnbauer*, 34 N. Y. S. 919, 13 Misc. Rep. 631 (1895); *Goldenberg* v. *Zirinsky*, 100 N. Y. S. 251, 114 App. Div. 827 (1906). And it has been held under the statute in question that the court cannot require the plaintiff to submit to the taking of an X-ray picture of any part of his anatomy. *Lasher* v. *Bolton's Sons*, 146 N. Y. S. 321, 161 App. Div. 381 (1914); *Gregory* v. *Acme Road Machinery Co.*, 162 N. Y. S. 574

175 App. Div. 473 (1916). The first case cannot be considered as holding that an order cannot be made in any case to take an X-ray picture of a plaintiff's injury, since the order, which was reversed on appeal, did not provide that the examination should be made as required by the statute. The last decision was by a divided court and was wholly based on the ground that, at that time, there was danger in taking radiographs.

The comparatively small element of danger involved in making a blood test, and the necessity for such a test to accurately determine the condition of the plaintiff, as sworn to by the examining physician, would seem to justify the decision in the instant case.

The point at issue here does not seem to have arisen in Virginia.

EVIDENCE—EXTRA-JUDICIAL CONFESSION UNCORROBORATED BY INDEPENDENT EVIDENCE OF CORPUS DELICTI WILL NOT WARRANT CONVICTION.—Defendant was indicted with other employees of a corporation for the larceny of certain goods from stock obtained by means of alleged fictitious order and cash slips, such as were required by the company's business system. Defendant acknowledged receipt of the goods, claiming to have bought them in the usual and proper course of business at their true value without any conspiracy to defraud. The prosecution offered evidence of a confession by the defendant to the superintendent of the company, which was admitted over defendant's objection, but there was no evidence to show any fraudulent connection of defendant or his alleged confederates with the cash slip necessary to procure delivery of the goods. Defendant was convicted, and upon an order denying a motion for a new trial, appealed, alleging error in the admission of the confession uncorroborated by independent evidence of the *corpus delicti*. *Held*, new trial granted. *State* v. *Wylie* (Minn.), 186 N. W. 707 (1922).

The probative force of extra-judicial confessions depends upon their trustworthiness and probable truth. *Bergen* v. *People*, 17 Ill. 426, 65 Am. Dec. 672 (1856); *State* v. *Guild*, 10 N. J. L. 163, 18 Am. Dec. 404 (1828); 3 WIGMORE, EVIDENCE, §§ 2070, 2071; 2 CHAMBERLAYNE, EVIDENCE, §§ 1595-1608; 1 GREENLEAF, EVIDENCE, (16th Ed.) § 217.

Whether an uncorroborated confession will support a conviction in a criminal case does not yet seem to have been satisfactorily settled in England. *Reg.* v. *Sullivan* (Ire.), 16 Cox C. C. 347 (1887); *Reg.* v. *Unkles*, Ir. R. 8 C. L. 50 (1874); *Wheling's Case*, 1 Leach, 311 n. (1789). The English rule, if there is one, that a confession in a criminal case must be supported by corroborative evidence specifically relative to the *corpus delicti* seems, at least, to be restricted to cases of homicide. *Reg.* v. *Sullivan*, *supra*.

The decisions in the United States may be divided into three classes:

(1) The majority rule requires that a confession be corroborated by independent evidence which must particularly concern the *corpus delicti* in order to warrant a conviction thereon, nor is the rule restricted to cases of homicide. *Bines* v. *State*, 118 Ga. 320, 45 S. E. 376, 68 L. R. A. 33, and excellent note (1903); *Stringfellow* v. *State*, 26 Miss. 157, 59 Am. Dec. 247 (1853).

(2) In a few jurisdictions, the corroborating facts, though required, may be of any kind and not necessarily concerning the *corpus delicti*, pro-